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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,796	08/30/2000	John Underwood	730301-2017	2074

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EXAMINER	
OSMAN, RAMY M	
ART UNIT	**PAPER NUMBER**
2157	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/651,796	UNDERWOOD ET AL.	
	Examiner	Art Unit	
	Ramy M. Osman	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. This communication is responsive to RCE amendment filed on June 2, 2005 where applicant amended claims 1,3-6,12,13,15-18 and 24-28. Claims 1-28 are pending. The rejections are as stated below.

Response to Arguments

2. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1,2,6,9-14,18 and 21-28 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-34 of U.S. Patent No. 6,697,825. Although the conflicting claims are not identical, they are not patentably distinct

from each other because the only new limitation which is added to the instant application is "including pre-created industry content from an external source". This is an inherent feature of any web developing/generating system because the pre-created content (also known as templates) are always stored on the developing server, which is an external source from the user.

5. Claims 1,12,13 and 24-28 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 35,45,48 and 49 of U.S. Patent No. 6,601,057. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only new limitation which is added to the instant application is "including pre-created industry content from an external source". This is an inherent feature of any web developing/generating system because the pre-created content (also known as templates) are always stored on the developing server, which is an external source from the user.

6. Claims 1,2,7-14 and 19-28 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,2,17,51-59,86 and 108-117 of copending Application No. 09/651,906. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only new limitation which is added to the instant application is "including pre-created industry content from an external source". This is an inherent feature of any web developing/generating system because the pre-created content (also known as templates) are always stored on the developing server, which is an external source from the user.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 1,2,7-14 and 19-28 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,18,19 and 36-42 of copending Application No. 09/652,612. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only new limitation which is added to the instant application is "including pre-created industry content from an external source". This is an inherent feature of any web developing/generating system because the pre-created content (also known as templates) are always stored on the developing server, which is an external source from the user.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 5 and 17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if applicant is referring to a single type of content or if applicant is referring to two types of content. There is only one content that was mentioned in the previous claims, therefore how can a content be different from itself. Applicant is requested to resolve this discrepancy.

10. Claim 4 recites the limitation "the dynamic content data" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1-10,12-22 and 24-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Cohen (U.S. Patent No. 6,263,352).

13. In reference to claims 1,12,13 and 24-28, Cohen teaches the method, system and a computer program, respectively comprising the steps of:

Receiving data entry (column 7 lines 50-67);

Determining one or more characteristics for each of one or more web site dimensions in accordance with the data entry (column 7 lines 50-67);

Generating a description of the web site based upon the one or more determined characteristics for each of the one or more web site dimensions (column 7 lines 50-67 & column 8 lines 1-10 & 20-30);

Retrieving web site data including dynamic content data from an external data source in accordance with the generated description of the web site (column 8 lines 30-50);

Generating one or more pages of the web site based upon the description of the web site and the retrieved web site data (column 8 lines 30-60); and

Presenting the generated web site (column 3 lines 45-55 and column 6 lines 5-40).

14. In reference to claims 2 and 14, Cohen teaches the method as claimed in claim 1, wherein the external data source is a web site (column 6 lines 5-30 & 57-67).

15. In reference to claims 3 and 15, Cohen teaches the method as claimed in claim 1, wherein the description defines a format of the dynamic content data (column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

16. In reference to claims 4 and 16, Cohen teaches the method as claimed in claim 3, wherein the format of the dynamic content data includes a look and feel of the dynamic content data (column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

17. In reference to claims 5 and 17, Cohen teaches the method as claimed in claim 3, wherein the format of the dynamic content data is different from a received format of the dynamic content data from the external data source (column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

18. In reference to claims 6 and 18, Cohen teaches the method as claimed in claim 3, wherein the format of the dynamic content data matches a format of the web site (column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

19. In reference to claims 7 and 19, Cohen teaches the method as claimed in claim 6, wherein the format of the web site is defined by at least one of the characteristics of at least one of the web site dimensions (column 3 lines 5-45, column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

20. In reference to claims 8 and 20, Cohen teaches the method as claimed in claim 1, further comprising the step of storing the description of the web site (column 3 lines 10-11 and column 8 lines 20-35).

21. In reference to claims 9 and 21, Cohen teaches the method as claimed in claim 1, wherein the data entry includes one or more user preferences (column 3 lines 1-25 and column 7 lines 50-67).

22. In reference to claims 10 and 22, Cohen teaches the method as claimed in claim 1, wherein the data entry includes one or more user profiles (column 3 lines 1-25 and column 7 lines 50-67).

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

24. Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen (U.S. Patent No. 6,263,352) in view of Burge et al. (U.S. Patent No. 6,014,638).

Cohen teaches the method of claims 1 and 13 above. Cohen fails to teach wherein the data entry includes one or more navigation histories. However, Burge teaches using navigation history to customize computer displays (column 3, lines 45-67).

It would have been obvious to one having ordinary skill in the art to modify Cohen by making the data entry comprised of navigation histories as per the teachings of Burge so as to customize the web site in accordance with the navigation history.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
August 19, 2005

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